

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 19-51724

FILTRATION SERVICES GROUP LLC,

Chapter 11

Debtor.

Judge Thomas J. Tucker

**MEMORANDUM REGARDING THE DEBTOR'S REVISED  
SALE MOTION, TO BE HEARD ON JANUARY 29, 2020**

In this case, the Court is scheduled to hold a further hearing on January 29, 2020 at 12:00 noon, regarding the Debtor's revised motion seeking authority to sell substantially all of the Debtor's assets under 11 U.S.C. § 363.<sup>1</sup> Among the assets that the Debtor now seeks approval to sell under 11 U.S.C. § 363 are "[a]ll causes of action belonging to the [Debtor], including but not limited to any and all causes of action arising under Chapter 5 of the Bankruptcy Code."<sup>2</sup> The original sale motion and the previous Asset Purchase Agreement did not propose to sell Chapter 5 causes of action.<sup>3</sup>

The Court files this Memorandum to give notice to the Debtor and all other parties in interest that the undersigned judge has previously held, in at least two other cases, that causes of action under Chapter 5 of the Bankruptcy Code cannot be sold by a Chapter 7 Trustee to anyone. *See In re Clements Mfg. Liquidation Co., LLC*, 558 B.R. 187 (Bankr. E.D. Mich. 2016); *In re DiNoto*, 562 B.R. 679 (Bankr. E.D. Mich. 2016). As the discussion of case law in those prior opinions indicates, the same ruling applies to any attempted sale of such causes of action by a Chapter 11 debtor in possession.

Given this Court's rulings in the previous cases, the undersigned judge is unlikely to approve any sale (or purported sale) of any causes of action under Chapter 5 of the Bankruptcy Code.

**Signed on January 28, 2020**



/s/ **Thomas J. Tucker**

**Thomas J. Tucker**  
**United States Bankruptcy Judge**

<sup>1</sup> The original sale motion was filed on November 22, 2019 (Docket # 70), and hearings were held on that motion on November 26, 2019, December 17, 2019, and January 22, 2020. The relief sought by the sale motion was recently revised substantially, as described during the January 22, 2020 hearing, and as shown by the documents filed by the Debtor on January 22, 2020 (Docket ## 102-104).

<sup>2</sup> See revised Asset Purchase Agreement, filed January 22, 2020 (Docket # 102-1) at p. 21, Schedule 1.01 (list of Purchased Assets, item "cc").

<sup>3</sup> See Asset Purchase Agreement filed December 3, 2019 (Docket # 84).  
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